

REMARKS

Claims 1-36, 57, and 58 are pending.

Claims 1 and 28-31 have been rejected under 35 U.S.C. § 112, first paragraph, as being enabling for compounds of Formula I and pharmaceutically acceptable salts thereof, but allegedly not being enabling for prodrugs. Claims 1-31, 57, and 58 have also been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point and distinctly claim the invention. More specifically, the Office has expressed concerns regarding the phrase “or prodrugs thereof” or “or form thereof” Applicants respectfully disagree with both of those rejections, but solely to expedite prosecution, the claims have been amended herein. As the rejections are moot, Applicants respectfully request that they be withdrawn.

Finally, Applicants note that the Office has expressed concern regarding certain citations on the PTO-1449 submitted with the February 10, 2006 Information Disclosure Statement. Specifically, the Office maintains that those citations are not compliant with 37 C.F.R. § 1.98(a)(3)(i) and 1.98(b)(5) as publication dates for the documents were not provided. Applicants must respectfully disagree with the Office’s characterization of the references.

37 C.F.R. § 1.98 provides for the listing of “patents, publications, applications, or other information submitted for consideration by the Office.” With regard to such “other information”, the patent rules and regulation do not require that publication dates be provided. Rather, the only requirement set forth in 37 C.F.R. § 1.98 with regard to such “other information” is that it be listed, that legible copies be included, and that a concise explanation be provided if the “other information” is not in English.

Contrary to the Office’s opinion that the lined-through references should be considered “publications”, Applicants respectfully maintain that those references fall within the ambit of “other information” and further that the minimum requirements of 37 C.F.R. §§ 1.97 and 1.98 have been met with regard to those lined-through citations. Applicants respectfully request that the Office consider those references as required by the patent rules and indicate that they were so considered as the M.P.E.P. dictates. For the Office’s convenience, Applicants relist the references previously crossed out by the Office on the concurrently-filed PTO/SB/08.

CONCLUSION

Applicants maintain that restriction is improper in the present application because examination of the compounds, compositions, and the claimed method of their use would not appear to impose an undue or serious burden on the Office's resources. Reconsideration of the restriction requirement is earnestly solicited.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 30, 2006

By: 

Lauren L. Stevens
Reg. No. 36,691

Tel: (650) 849-6614
Fax: (650) 849-6666